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REMARKS

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

Regarding the Rejections under 35 U.S.C. §103

All claims have been rejected based upon obviousness in light of the combination of Fangman, Arnold and Chakraborty of record. Applicants respectfully traverse the rejections as follows.

The Office Action quotes the requirements for patentability noting the so-called Graham inquiries. However, the Office Action fails to note the additional requirements noted in *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), as explicitly endorsed by the Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (S.Ct.2007) - “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”). It is further noted that MPEP2141.02 clearly requires that the claim be considered as a whole. Such consideration requires that each and every claimed feature as well as its interconnection and relationship with the other features be considered in evaluation of the differences in the claim and the prior art as required in the Graham inquiries. The Office must further provide articulated reasoning with rational underpinning for the obviousness of both the combination of claim features and their interrelationship to establish *prima facie* obviousness. When these principles are applied, it is submitted that the claims as amended clearly meet the requirements for patentability.

Regarding independent claims 1, 9 and 11, each of these claims explicitly call out that “the DHCP services use DHCP option 43 to define a scope of the subscriber site”. Line 14 of page 6 of the specification explicitly states “DHCP option 43, vendor-specific information, is used in this design to define the scope i.e. the number of possible terminals in a subscriber site. Defining such a scope limits the number of potential peers a subscriber terminal will seek during the discovery process, reducing network traffic during this phase” thereby defining the meaning of the term “scope of the subscriber site” as used in the claims to mean the number of possible

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terminals in a subscriber site. The Office Action points to Arnold's use of DHCP and Fangman's use of option 43, but neither reference, as best understood by the undersigned, uses Option 43 to define a scope of a subscriber site as required by the claims. Fangman only appears to describe Option 43 as vendor-specific information. Paragraph [0280] of Fangman only relates to determining if an IP address is static or dynamic.

Hence, it is apparent that the cited art at least fails to describe, teach or suggest use of Option 43 to define a scope of the subscriber site as called for in these claims. Further, the Office Action has not accounted for this claim feature by any "articulated reasoning with rational underpinning" present in the Office Action as required by *In re Khon*. Applicants further submit that there is no articulated reasoning for making the combination as proposed to meet all features of the apparatus as claimed other than a conclusion that it would provide an "improved communication network". It is respectfully submitted that this is a mere conclusory statement which would appear prohibited by *In re Kahn* as noted above. Accordingly, reconsideration and allowance of claims 1, 9, 11 and all claims dependent thereupon are respectfully requested.

Regarding claims 19, 26 and 32, it is noted that claims 20, 27 and 33 have been cancelled and their features incorporated into claims 19 and 26. With this amendment, these claims are clearly allowable for at least the same reasons noted above in connection with claims 1, 9 and 11. Claims 26, 30 and 31 were also amended to remove the "means for" language in view of the claim being directed to a storage medium. Reconsideration and allowance of claims 19, 26 and all remaining claims dependent thereupon are respectfully requested.

New claims 38 – 40 are submitted for the Examiner's consideration. Consideration and allowance are respectfully requested.

#### Concluding Remarks

The undersigned additionally notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above in connection with the independent claims, further discussion is believed to be unnecessary at this time.

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Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort. Applicants reserve the right to argue any of the points presented for the rejection of the dependent claims at a later date.

**Interview Request**

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

Respectfully submitted,

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